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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,

12 Respondent,

13 v.

14 D'ANGELO DOMINICO DAVIS,

15 Movant.
16

No. 2:98-cr-0114 KJM DAD P

ORDER

17 Movant is a federal prisoner proceeding through counsel with an amended motion to
18 vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On February 19, 2013,
19 respondent filed an opposition to movant's amended § 2255 motion. On April 20, 2013, after an
20 extension of time, movant filed a thirty-four page traverse. On April 22, 2013, movant filed a ten
21 page addendum to his traverse. On April 24, 2013, respondent filed a motion to amend his
22 opposition and an amended opposition.

23 On June 3, 2013, movant filed a forty-six page amended traverse. Also on June 3, 2013,
24 movant filed a motion for leave to file additional briefing in support of his amended traverse.
25 Therein, movant's counsel requested permission to submit additional briefing with respect to the
26 following: (1) the recent decision of the Supreme Court in McQuiggin v. Perkins, ___ U.S. ___,
27 133 S. Ct. 1924 (2013) as it relates to movant's claim of actual innocence; (2) the issue of
28 whether the decisions in Napue v. Illinois, 360 U.S. 264 (1959) and Giglio v. United States, 405

1 U.S. 150 (1972) apply to movant's third ground for relief; and (3) whether the decision in Brady
2 v. Maryland, 373 U.S. 83 (1963) "should be considered in Ground 3." (ECF #320 at 5.)

3 In response to movant's June 3, 2013 motion for additional briefing, on June 17, 2013,
4 this court granted movant's motion but placed limits on the length of the further briefing
5 submitted by the parties. That order also advised the parties that no further briefing would be
6 allowed in this matter. Movant filed his supplemental brief on July 1, 2013, respondent filed his
7 responsive brief on July 15, 2013, and movant filed a reply on July 22, 2013.

8 Despite the court's recent advisement that no further briefing would be permitted, on
9 August 22, 2013, movant filed a document styled "Motion to Reopen and Amend 28 U.S.C. §
10 2255 motion." Therein, movant's counsel requests leave to file additional briefing addressing the
11 recent Supreme Court decisions in Alleyne v. United States, ___ U.S. ___, 133 S. Ct. 2151 (2013)
12 and Descamps v. United States, ___ U.S. ___, 133 S. Ct. 2276 (2013), and "to expand upon the
13 issues related to Ground 4, Resentencing." (ECF No. 326 at 1.) In the motion movant's counsel
14 states that these two decisions "might be relevant and provide the legal authority for this court to
15 grant [movant] some relief." (Id.)¹

16 The court concludes that movant has failed to demonstrate good cause for an order for
17 further briefing in this action. The court will consider the Alleyne and Descamps decisions when
18 issuing its findings and recommendations on movant's § 2255 motion. However, no further
19 briefing in this action will be permitted.

20 Accordingly, IT IS ORDERED that:

- 21 1. Movant's August 22, 2013 motion for further briefing (ECF No. 326) is denied; and
22 2. This matter now stands submitted to the court for decision.

23 Dated: August 26, 2013

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

27 ¹ However, counsel does not explain therein how he wishes to "expand" on movant's fourth
28 claim for relief.